

(PRE-FILED)

By: **Delegate Boschert**

Requested: October 22, 2003

Introduced and read first time: January 14, 2004

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Tax Credit - Higher Education Assistance Contract**

3 FOR the purpose of allowing a certain credit against the State income tax for higher
4 education assistance provided by a business entity to a student who enters into
5 a higher education assistance contract with the business entity; requiring the
6 higher education assistance contract to contain certain employment
7 requirements; providing that the tax credit may be earned for certain tax years;
8 providing that the tax credit may not exceed the lesser of a certain amount or
9 the State income tax for that taxable year; providing that any unused tax credit
10 for a taxable year may not be carried over to any other taxable year; providing
11 for the recapture of the tax credit under certain circumstances; defining certain
12 terms; providing for the application of this Act; and generally relating to a tax
13 credit against the State income tax for expenses incurred pursuant to a higher
14 education assistance contract.

15 BY repealing and reenacting, without amendments,
16 Article - Education
17 Section 10-101(g)
18 Annotated Code of Maryland
19 (2001 Replacement Volume and 2003 Supplement)

20 BY adding to
21 Article - Tax - General
22 Section 10-725
23 Annotated Code of Maryland
24 (1997 Replacement Volume and 2003 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Education

2 10-101.

3 (g) "Institution of higher education" means an institution of postsecondary
4 education that generally limits enrollment to graduates of secondary schools, and
5 awards degrees at either the associate, baccalaureate, or graduate level.

6

Article - Tax - General

7 10-725.

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (2) "BUSINESS ENTITY" MEANS A PERSON CONDUCTING OR OPERATING
11 A TRADE OR BUSINESS IN MARYLAND.

12 (3) "HIGHER EDUCATION ASSISTANCE" MEANS FINANCIAL ASSISTANCE
13 PROVIDED BY A BUSINESS ENTITY TO A STUDENT OF AN INSTITUTION OF HIGHER
14 EDUCATION TO PAY PART OR ALL OF THE COST OF TUITION AND MANDATORY FEES.

15 (4) "HIGHER EDUCATION ASSISTANCE CONTRACT" MEANS A CONTRACT
16 ENTERED INTO BY A BUSINESS ENTITY AND A STUDENT OR PROSPECTIVE STUDENT
17 IN WHICH:

18 (I) THE BUSINESS ENTITY AGREES TO GIVE A STUDENT OR
19 PROSPECTIVE STUDENT HIGHER EDUCATION ASSISTANCE; AND

20 (II) THE STUDENT OR PROSPECTIVE STUDENT AGREES TO BE
21 EMPLOYED BY THE BUSINESS ENTITY IN THE STATE WITHIN 1 YEAR AFTER
22 GRADUATION FOR A PERIOD EQUAL TO 1 YEAR FOR EACH YEAR OF HIGHER
23 EDUCATION ASSISTANCE PROVIDED.

24 (5) "INSTITUTION OF HIGHER EDUCATION" HAS THE MEANING STATED
25 IN § 10-101 OF THE EDUCATION ARTICLE.

26 (B) AN INDIVIDUAL OR A CORPORATION THAT ENTERS INTO A HIGHER
27 EDUCATION ASSISTANCE CONTRACT WITH A STUDENT OR PROSPECTIVE STUDENT
28 MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT EQUAL TO
29 30% OF THE COST OF HIGHER EDUCATION ASSISTANCE INCURRED BY THE BUSINESS
30 ENTITY DURING THE TAXABLE YEAR.

31 (C) (1) THE TOTAL AMOUNT OF THE CREDIT ALLOWED UNDER THIS
32 SECTION FOR ANY TAXABLE YEAR MAY NOT EXCEED THE LESSER OF:

33 (I) \$50,000; OR

34 (II) THE STATE INCOME TAX FOR THAT TAXABLE YEAR,
35 CALCULATED BEFORE APPLICATION OF THE CREDITS UNDER THIS SECTION AND §§

1 10-701 AND 10-701.1 OF THIS SUBTITLE, BUT AFTER APPLICATION OF THE OTHER
2 CREDITS ALLOWABLE UNDER THIS SUBTITLE.

3 (2) THE UNUSED AMOUNT OF THE CREDIT FOR ANY TAXABLE YEAR MAY
4 NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

5 (3) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT BE EARNED
6 FOR ANY TAXABLE YEAR BEGINNING ON OR AFTER JANUARY 1, 2010.

7 (D) (1) THE CREDITS ALLOWED UNDER THIS SECTION SHALL BE
8 RECAPTURED AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION IF A STUDENT
9 FAILS TO MEET ANY OF THE EMPLOYMENT REQUIREMENTS OF THE HIGHER
10 EDUCATION ASSISTANCE CONTRACT.

11 (2) THE AMOUNT OF CREDITS TO BE RECAPTURED SHALL BE
12 DETERMINED BY MULTIPLYING THE TOTAL AMOUNT OF CREDITS TAKEN FOR THE
13 HIGHER EDUCATION ASSISTANCE PROVIDED TO A STUDENT BY A FRACTION THAT
14 HAS:

15 (I) AS ITS NUMERATOR, THE TOTAL NUMBER OF YEARS OF
16 EMPLOYMENT REQUIRED UNDER THE HIGHER EDUCATION ASSISTANCE CONTRACT
17 MINUS THE NUMBER OF YEARS THE STUDENT WAS ACTUALLY EMPLOYED; AND

18 (II) AS ITS DENOMINATOR, THE TOTAL NUMBER OF YEARS OF
19 EMPLOYMENT REQUIRED UNDER THE HIGHER EDUCATION ASSISTANCE CONTRACT.

20 (3) THE INDIVIDUAL OR CORPORATION THAT CLAIMED THE CREDITS
21 SHALL PAY THE AMOUNT TO BE RECAPTURED AS DETERMINED UNDER PARAGRAPH
22 (2) OF THIS SUBSECTION AS TAXES PAYABLE TO THE STATE FOR THE FIRST TAXABLE
23 YEAR IN WHICH THE EMPLOYMENT REQUIREMENTS OF THE HIGHER EDUCATION
24 ASSISTANCE CONTRACT ARE NOT FULFILLED.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 July 1, 2004, and shall apply to taxable years beginning after December 31, 2004.